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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/705,951 | 11/13/2003 | Estelle Keeter | 21159.00 | 6708 |
| 37833 | 7590 | 11/03/2004 | EXAMINER | |
| LITMAN LAW OFFICES, LTD. P.O. BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215 | | | JIANG, CHEN WEN | |
| | | | ART UNIT | PAPER NUMBER |

3744

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,951

Applicant(s)

KEETER ET AL.

Examiner

Chen-Wen Jiang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20031113.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The use of the trademark "Lifoam Iceberg Freeze Pack" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

2. The following rejections are based on the best understanding of the claimed limitations.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,5,6,7 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ehmann (U.S. Patent Number 4,429,793) in view of Lustig (U.S. Patent Number 6,253,570).

In regard to claims 1,5,6,7 and 8, Ehmann discloses thermally insulated bag for carrying temperature-sensitive medications. The bag 10 comprises a front cover 12, a back cover 14, a center binder 16, pouch 24, elastic straps 28,34,36, cooling mechanism 42 and a zipper 18. Ehmann discloses the invention substantially as claimed. However, Ehmann does not disclose the cooling mechanism is located in a pouch and the insulated material is flexible. Lustig discloses a flexible insulated material and pouch contained cooling mechanism in the same field

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of endeavor for using different material and retaining means. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Ehmann with cooling mechanism is located in a pouch and the insulated material is flexible in view of Lustig so as to have different face material and cooling retaining means.

In regard to claims 9-12, Lustig discloses the gel refrigerant can be use as cooling material. The items arranged in the bag are user's choice.

5. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ehmann and Lustig as applied to claim 1 above, and further in view of Macedo (U.S. Patent Number 5,400,610).

Ehmann and Lustig disclose the invention substantially as claimed. However, Ehmann and Lustig do not disclose the claimed housing material. Macedo discloses the claimed material in the same field of endeavor for the purpose of making housing. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Ehmann and Lustig with claimed material in view of Macedo so as to make the housing. Also, the applicant should note that the selection of known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (703) 308-0275 (571 272-4809 after 11/20/2004). The examiner can normally be reached on Tuesday-Friday from 7:00 to 5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned to the right of the name and title.